

INTRODUCTION

Unless a parent's parental rights have been terminated or a guardian has been appointed for the parent or child, a parent may execute a voluntary release of parental rights before a judge or referee. A guardian of the parent or child must obtain authority to execute the release from the court that appointed the guardian. If the parent executing the release is an unemancipated minor, the parent or guardian of the minor parent must also execute the release. If the minor parent is a Michigan Children's Institute (MCI) ward, the MCI Superintendent must also execute the release. If the child being released is over five years of age, the court must determine that the best interest of the child is served by the release.

**Advising The
Parent or Guardian**

When the Department of Human Services (DHS) is involved in the release from a parent or guardian, a representative of the department must advise the parent or guardian about child placing agencies serving the county and, upon the parent's or guardian's request, must refer the parent or guardian to a child placing agency. [MCL 710.28 (6)]

The child-placing agency is required by law to provide families with release services.

A PCA 305, Release of Child by Parent, or PCA 305a, Release of Child by Guardian, signed by the parent or guardian must accompany a release by a parent or guardian.

**COURT
TERMINATION ON
BOTH PARENTS
REQUIRED**

In any release, the court must terminate both parents' rights. When the parents are married and one parent is unavailable or unwilling to release, that parent's rights must be terminated as described in MCL 712A.19b, proceedings to terminate parental rights.

When the parents are not married and the mother wishes to release, the putative father's rights may be terminated per the Michigan Adoption Code MCL 710.31 – MCL 710.39. (See Informing Putative Father below.)

Father

The unmarried mother is required to inform the court of the identity of the putative father, if known. She must also inform the court of any financial support provided to her by the father while she was pregnant or any financial support her child has received from him.

**Informing Putative
Father**

When a child born to an unmarried woman is to be released, efforts must be made by the agency (CPS and/or Foster Care worker) to identify the father of the child (putative father) and inform him of the proposed action.

Child Not Yet Born

A pregnant mother intending to release may file a PCA 313, Petition to Issue Notice of Intent to Release or Consent. If filed, the notice must be provided to the putative father. If the notice is delivered more than 30 days before birth of the child and the father does not claim paternity, this may form a basis for terminating the father's rights.

After Birth of Child

If the child is already born, the father is to receive a PCA 314, Notice of Intent to Release or Consent. The father may respond in the following ways:

- Ignore the notice.
- Deny paternity.
- Affirm paternity, but deny interest in custody.
- Affirm paternity and express interest in custody of the child.

**Father Requests
Custody**

If the father requests custody of the child, the court will evaluate the fitness of the father to take custody. The mother may withhold her release until this decision is made. If the father is determined to be fit to receive custody, the court makes a temporary placement of the child pending a full custody hearing. If the father is determined unfit, the court may terminate his rights under the:

- Juvenile Code [MCL 712A.19b] if a custodial or support relationship existed, or

- Adoption Code [MCL 710.39] if a custodial or support relationship did not exist.

Father Does Not Request Custody

If the putative father denies paternity or denies interest in custody of the child (e.g., fails to appear at the hearing for which he received notice), the court may take testimony that this is the father of the child and terminate the father's rights in accordance with the Adoption Code [MCL 710.37]. When a father does not appear or his identity is not known, the court may require a report regarding the efforts made to locate the father before the father's rights are terminated.

COMMITMENT TO THE DEPARTMENT

Upon completion of a parental release, the court will issue an order terminating the rights of the releasing parents. When all parental rights have been terminated, the court may issue an order committing the child to DHS whereupon DHS must accept the commitment. Upon release and commitment, the child becomes a state ward.

NOTIFICATION TO PRIVATE ADOPTION AGENCIES

MCL 710.28(6) requires that the local DHS notify the private adoption agencies serving the county of any child voluntarily released to the department. Refer a child to private adoption agencies when all the following conditions apply:

- The child was committed to the Department pursuant to 1974 PA 296 [MCL 710.21 et seq.].
- The child was not a temporary ward of the court prior to commitment.
- The child's permanency plan is adoption.

**RELEASE OF CHILD
BY PRIVATE CHILD
PLACING AGENCY
TO DHS
(SECONDARY
RELEASE)**

When a child has been released or committed to a private child placing agency, the agency may release the child to DHS. Such releases (commonly referred to as a “secondary release”) may be executed and acknowledged before a person authorized by law to administer oaths. The department must accept the release. The private child placing agency must provide DHS with all required documentation in order to establish a foster care case.

Upon acceptance of the release, the department may:

- Assume full adoption planning responsibility for the child, or
- Purchase foster care and adoption services from a private child-placing agency.

**LIMITED TERM AND
EMERGENCY
FOSTER CARE**

Limited-term and emergency foster care funds may be used to provide foster care for up to 30 days prior to a voluntary release to the department under the provisions of the Adoption Code, 1974 PA 296, as amended, MCL 710.21 et seq. The area manager must approve extensions of the 30 day period. (See FOM 902-9, PR - Limited Term and Emergency Foster Care Funding.)

**CENTRAL FILE FOR
VOLUNTARY
RELEASES**

When a child is released, a copy of the release(s), PCA 318, Order Terminating Parental Rights after Release or Consent and PCA 322, Order Committing to Agency/Department of Human Services must be sent to Document Control in central office. This process is required to avoid an inappropriate charge back to the county for the child’s foster care.

**FORMS AND
MATERIALS**

The legal forms listed below have been approved by the State Court Administrative Office for use in executing a release of parental rights:

- PCA 305, Release of Child by Parent (see description below).
- PCA 305a, Release of Child by Guardian (see description below).
- PCA 306, Release of Child by Child Placing Agency.
- PCA 310, Petition for Hearing to Identify Father and Determine or Terminate His Rights.
- PCA 311, Notice of Hearing to Identify Father and Determine or Terminate His Rights.
- PCA 312, Order Terminating Rights of Father without Release or Consent.
- PCA 313, Petition to Issue Notice of Intent to Release or Consent.
- PCA 314, Notice of Intent to Release or Consent.
- PCA 315, Declaration of Inability to Identify/Locate Father.
- PCA 316, Notice to Putative Father and Custody Statement.
- PCA 318, Order Terminating Parental Rights after Release or Consent.
- PCA 322, Order Committing to Agency/Department of Human Services.
- PCA 338, Statement to Accompany Release (see description below).

Form Descriptions***PCA 305 or PCA 305a***

A PCA 305, Release of Child by Parent or PCA 305a, Release of Child by Guardian must be prepared for each parent or guardian's signature (original and three copies). A release shall be given only

to the Michigan Department of Human Services or to a private child-placing agency pursuant to MCL 710.28(5) during a court hearing.

PCA 338

A PCA 338, Statement to Accompany Release, must be prepared that indicates the parent or guardian:

- Has received a list of adoption support groups.
- Has received a copy of DHS Publication 255, Michigan Department of Human Services Adoption Program Statement.
- Has received, or waived, counseling related to the adoption.
- Has not received or been promised any money or anything of value for the release of the child, except for lawful payments itemized on the schedule filed with the release.
- Has assured that the validity or the finality of the release has not been affected by any agreement between the parent and the adoptive parent, or the agency to which the child is being released.
- Was advised that the welfare of the adoptee will be served by keeping the private child-placing agency or DHS informed of any health problems that could affect the adoptee.
- Was advised that the welfare of the adoptee will be served by keeping the private child-placing agency or DHS informed of the current address of the releasing parent(s).

The PCA 338 also serves as verification of required information given to the parent(s) regarding a voluntary parental release.

An investigation report and the child's birth certificate must be provided to the court. The following is a suggested outline for this report:

- Date of initial inquiry regarding release.
- Dates of contact with family.
- Family history and social information.
- Circumstances leading to release.
- Alternatives to release explored.
- Recommendation to the court.

**SAFE DELIVERY
ACT**

If a child meets the criteria for the Safe Delivery Act (2000 PA 232-235, MCL 712.1 et seq.) (there is no evidence of child abuse or neglect, the child is less than 72 hours old and is voluntarily surrendered by a parent), the child must be referred to a licensed child-placing agency for adoption services. (See PSM 712-6, CPS Intake - Special Cases.)